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THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Office of Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, D.C. 20554

**SUPPLEMENTAL COMMENTS ON THE JOINT BOARD'S
SECOND RECOMMENDED DECISION
CC DOCKET NO. 96-45, DA 98-2410**

In response to the Public Notice¹ seeking comment on the Second Recommended Decision ("Second Recommended Decision") of the Federal-State Joint Board on Universal Service,² the Massachusetts Department of Telecommunications and Energy ("M.D.T.E.") filed initial comments with several other states ("Initial Comments of the Joint State Commissions"). The Illinois Commerce Commission ("ICC") filed Supplemental Initial Comments to address additional concerns it had about the Second Recommended Decision. The M.D.T.E. would like to associate itself with the third enumerated issue contained in the ICC's supplemental filing. The M.D.T.E. agrees with the ICC that the Federal Communications Commission ("FCC") should not reconsider its decision to permit carriers to recover their contributions to the federal high cost fund solely through interstate revenues. Earlier this year, the M.D.T.E. filed comments with the FCC on this issue and others,³ and asks that the FCC consider these comments anew.

The M.D.T.E. does not find that Congress intended, by the Telecommunications Act of 1996, to confer authority to the FCC to utilize intrastate revenues in determining a carrier's contribution to the federal universal service fund. Moreover, as noted in the ICC's Supplemental Initial Comments, use of intrastate revenues to support the federal universal service fund will negatively affect a state's ability to fund an intrastate universal service fund. This could not have been the congressional intent as Congress expressly granted states the right to establish their own universal service funds in section 254(f).

¹DA 98-2410

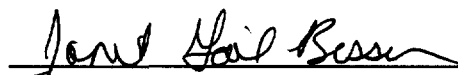
²Federal-State Joint Board on Universal Service, Second Recommended Decision, CC Docket No. 96-45, FCC 98J-7 (November 25, 1998).

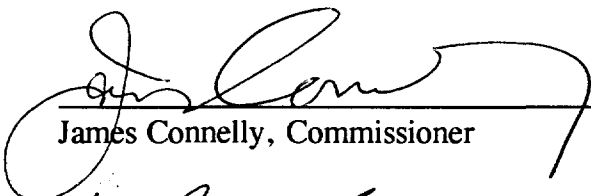
³A copy of these comments is included with this filing.


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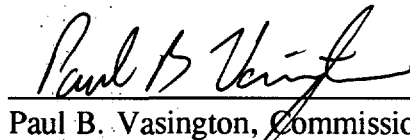
Respectfully submitted,
Commonwealth of Massachusetts
Department of Telecommunications and Energy

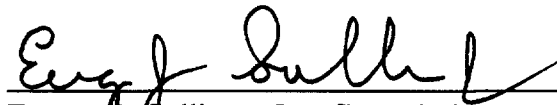
By:


Janet Gail Besser, Chair


James Connelly, Commissioner


W. Robert Keating, Commissioner


Paul B. Vasington, Commissioner


Eugene J. Sullivan, Jr., Commissioner

100 Cambridge Street, 12th Floor
Boston, MA 02202
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December 23, 1998

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**THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: CC Docket Nos. 96-45 and 97-160, and DA 98-715

**REPLY COMMENTS OF THE
MASSACHUSETTS DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY**

I. Introduction

These reply comments are submitted in response to the Federal Communications Commission's ("FCC" or "Commission") April 15, 1998 request for comments on proposals to revise the methodology for determining universal service support. A number of parties have submitted proposals and/or have provided the Commission with comments. In these reply comments, the Massachusetts Department of Telecommunications and Energy ("Massachusetts Commission") does not advocate adoption or rejection of any of the specific proposals which have been made, but instead offers its opinion on the principles and standards that the Commission should use in evaluating these proposals and comments.

The following principles should guide the Commission's review:

1. Universal service policy should be designed to maintain or increase subscribership—not to transfer wealth from low-cost to high-cost regions.
2. Federal universal service programs should be funded solely out of assessments on federal (i.e., interstate) revenues/services.
3. Universal service support should be limited to what is needed to achieve reasonable policy objectives pursuant to the Telecommunications Act of 1996.

II. Discussion

1. Principle 1: Universal service policy should be designed to maintain or increase subscribership—not to transfer wealth from low-cost to high-cost regions.

The Commission has noted that, "Universal service support mechanisms that are designed to increase subscribership by keeping rates affordable will benefit everyone in the country, including those who can afford basic telephone service."¹ Some interested parties appear to take the Act's mandate that rates be "reasonably comparable" in both rural and urban areas as an invitation to extend the mandate of universal service from ensuring that all citizens have access to affordable telecommunications service to ironing out all (or a substantial portion of) cost differences between states and between urban and rural areas. We submit that the Commission should reject any attempts to change universal service from a valuable social policy objective into a tool for wealth transfer from low-cost to high-cost states. In order to preserve the traditional function of universal service policy, support policies should take into account *need* as well as *cost*. Otherwise, universal service support could result in low-income urban and suburban customers subsidizing high-income rural customers. The principal goal of high-cost policies should be to provide support to needy customers in high-cost areas. The Act's mandate to ensure that rates are "reasonably comparable" in rural and urban areas should be viewed through the prism of universal service goals, in that rates should be *reasonably comparable in terms of affordability* (which, by definition, encompasses need as part of the analysis), not in terms of absolute rate levels.

2. Principle 2: Federal universal service programs should be funded solely out of assessments on federal (*i.e.*, interstate) revenues/services.

The Commission should reject attempts to extend assessments for interstate universal service support to intrastate revenues. States may be responsible for replacing intrastate implicit universal service support with explicit support based on intrastate revenues, which means that intrastate revenues would be assessed twice if the Commission attempts to extend federal assessments to state revenues. Such a move also would likely result in further litigation to define jurisdictional boundaries, to the detriment of all concerned.

This principle also suggests that the Commission should consider carefully whether it should modify its determination that the federal high-cost support will be limited to 25% of the required amount, which is roughly equal to the federal portion of separated local exchange costs. Clearly defined jurisdictional boundaries should be respected by the

¹ FCC 97-157, Report and Order, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Released: May 8, 1997, ¶ 8.

states as well as the federal government. States have to date succeeded in defending their role as the primary regulators of local telephone services, but it undermines this role to argue that the Commission should provide support for local service beyond the Federal jurisdictional share.

3. Principle 3: Universal service support should be limited to what is needed to achieve reasonable policy objectives pursuant to the Telecommunications Act of 1996.

Proposals to increase the size of existing high-cost support should be evaluated in terms of whether it is truly necessary to increase existing support in order to achieve universal service objectives. In its February 1998 "Trends in Telephone Service" Report, the Commission noted that United States telephone penetration is at 93.9 percent, up from 91.6 percent in 1984, which suggests that additional support is not needed to solve a problem that largely does not exist. In particular, the Commission should evaluate the flow of money from state-to-state in terms of each state's subscribership level in order to prevent the kind of purposeless wealth transfers described above.

Another issue for the Commission to consider is the effect that increased high-cost support will have on universal service, given that there is evidence that subscribership is significantly affected by the level of long-distance charges.² Increased federal support assessed on interstate revenues (largely interstate toll services) could increase the cost of toll services, which may have an unintended negative impact on universal service.

III. Conclusion

We urge the Commission to consider these principles as it evaluates the proposals and comments received from other parties. We share the Commission's commitment to the preservation and advancement of universal service, but we do not want to see the legitimate goals of universal service policy expanded to include support that (1) is not needed to achieve those goals and (2) could potentially undermine them.

² "Recent studies indicate that disconnection for non-payment of toll charges, and the high deposits carriers charge to cover the cost of noncollectible charges, may be more significant barriers to universal service than the cost of local service itself." FCC 96-93, Notice of Proposed Rulemaking and Order Establishing Joint Board, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Released: March 8, 1996, ¶ 56.

Respectfully submitted,

The Commonwealth of Massachusetts
Department of Telecommunications and Energy

By:

Janet Gail Besser, Chair

James Connelly, Commissioner

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

100 Cambridge Street, 12th Floor
Boston, MA 02202
617-305-3500

Dated: May 29, 1998

On November 23, 1998, the Federal-State Joint Board on Universal Service adopted the Second Recommended Decision providing the Commission with recommendations regarding high cost universal service support mechanisms for non-rural carriers.⁽¹⁾ The Common Carrier Bureau seeks comment on the Joint Board's recommendations.

Parties wishing to comment on the *Second Recommended Decision* are directed to file the comments on or before **December 23, 1998**, and to file reply comments on or before **January 13, 1999**, in accordance with section 1.415 of the Commission's rules, 47 C.F.R. § 1.415, and the procedures set forth below.

Procedure for Filing

All filings should reference: Comments on Joint Board *Second Recommended Decision*, CC Docket No. 96-45, and should include the DA number shown on this Public Notice. Interested parties must file an original and six copies of their comments with the Office of Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20554. Parties should send one copy of their comments to the Commission's copy contractor, International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20036. Copies of documents filed with the Commission, including the *Second Recommended Decision*, may be obtained from the International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800. Documents are also available for review and copying at the FCC Reference Center, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20554, from 9:00 a.m. to 4:30 p.m.

Parties may also file comments electronically via the Internet at: <<http://www.fcc.gov/e-file/ecfs.html>>. Only one copy of an electronic submission must be submitted. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the lead docket number for this proceeding, which is CC Docket No. 96-45. Parties not submitting their comments via the Internet are also asked to submit their comments on diskette. Parties submitting diskettes should submit them to Sheryl Todd, Common Carrier Bureau, Federal Communications Commission, 2100 M. St, N.W., 8th Floor, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding (including the lead docket number in this case, Docket No. 96-45, type of pleading -- comment or reply comment), date of submission, and the name of the electronic file on the diskette. Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, parties must send copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036.

For further information, contact Chuck Keller, Accounting Policy Division, Common Carrier Bureau at (202) 418-7400, TTY (202) 418-0484, or via e-mail: <ckeller@fcc.gov>.

Action by the Deputy Chief, Common Carrier Bureau.

- FCC -

1. *Federal-State Joint Board on Universal Service, Second Recommended Decision*, CC Docket No. 96-45, FCC 98J-7 (Jt. Bd., rel. Nov. 25, 1998).

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PUBLIC NOTICE

Federal Communications Commission
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DA 98-2410
Released November 25, 1998

**COMMON CARRIER BUREAU SEEKS COMMENT ON
UNIVERSAL SERVICE JOINT BOARD'S
SECOND RECOMMENDED DECISION
CC Docket No. 96-45**

Comment Date: December 23, 1998
Reply Comment Date: January 13, 1999